

2017 Legislative Session Report, Cindy Robert ORPA Legislative Advocate

Amazingly, 2,827 bills were introduced in the 79th assembly of the Oregon legislature, more than 1,000 passed, but just eight of the 2,827 will be used by the public and the press to measure success: Four that passed: transportation package, health provider tax, pay equity and a statewide work schedule mandate. Four that did not: revenue reform, tenant protections, paid family leave and PERS fixes.

While not as large as originally proposed, the overdue statewide transportation package passed with bi-partisan leadership and support. The package raises \$5.3 billion in the next decade and is dedicated to reducing congestion, increasing alternate transportation options, investing in maintenance and preservation, improving safety of existing infrastructure, and ensuring ODOT accountability. A gas tax is at the heart of the package that comes with some twists:

- A phased in gas tax increase that adds 4 cents January 2018, and 2 cent additions in 2020, 2022, and 2024.
- A tiered increase in title and registration fees based on vehicle fuel efficiency, including a surcharge of \$110 for electric vehicles (reasoning is that vehicles that use less fuel still do the same damage to roads but do not pay their share through gas tax; however, the package also provides incentives for the purchase of electric vehicles).
- A statewide payroll tax of 0.1 percent to pay for mass transit.
- A bicycle tax of \$15 on bicycles costing more than \$200.
- A dealer privilege tax of 0.5 percent on new vehicle purchases.

Substantial improvements for the state's bridges and culverts, ConnectOregon multimodal funding, and Safe Routes to School programs are also funded in the package. And to help secure Republican support, caps on fuel cost increases resulting from the Clean Fuels program were added.

Oregon Recreation & Park Association

Prior to the 2017 Oregon Legislative Session, top issues outlined for ORPA were as follows:

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|-------------------------|-------------------------------------|
| • Recreational Immunity | <i>Passed</i> |
| • Work Schedule Mandate | <i>Amended - ORPA employees out</i> |
| • Minimum Wage | <i>No changes</i> |
| • Right to Rest | <i>Failed</i> |
| • Public Records | <i>Amended to be reasonable</i> |
| • SDCs | <i>No changes</i> |

And some major issues quickly evolved that we definitely needed to address:

- | | |
|----------------------------------------|---------------|
| ▪ Off work employees can use marijuana | <i>Failed</i> |
| ▪ Children's taxing districts | <i>Failed</i> |

Bills Supported or monitored by ORPA:

SB 327

Recreational Immunity

Of highest importance to our members was the fight for recreational immunity – SB 327. ORPA and SDAO led the advocacy efforts, which began with coalition building and bill drafting during the interim. The League of Oregon Cities, Association of Oregon Counties and the Forest and Industries Council became essential partners without whom this could not have been done. I also thank ORPA members for writing letters of support to committees and reaching out to your legislators.

The policy and politics surrounding SB 327 were intense, but even with the Speaker of the House voting against the bill, we were still able to overcome procedural roadblocks and get to the floor for a vote that was overwhelmingly supportive. Private and public landowners came together, met with EVERY legislator and worked tirelessly to achieve passage. Teamwork!

SB 123

Children's Special District

Defeating SB123 evolved into a top priority for ORPA as well. The bill allowed formation of children's special districts, which could levy property taxes to fund programs that offer children's services such as after-school civics, culture, arts and music, physical recreation, and health and well-being. The Legislative Committee's concern was that the addition of another taxing district could lead to property tax compression and further strain resources for special districts and cities. Furthermore, because parks districts and city parks programs already offer many of these activities, the bill potentially taxed twice for similar (and competing) services. Put simply, SB 123 took another piece of a pie that is already too small.

With the help of ORPA members, I was able to relay to each committee member how their local parks and rec providers were already meeting many needs. In the end, the bill's proposed amendments only affected Washington County.

In the following pages you will see that our final bill tracking list reports desired outcomes for most of which we supported, opposed and needed to amend – overall a very successful session for ORPA.

Again, I want to thank you for the opportunity to represent you - I am honored by your trust in me and grateful for all your assistance along the way.

HB 2005

Pay Equity

Effective October 2017

Makes unlawful employment practice to discriminate in payment of wages or other compensation on basis of protected classes, including race, color, religion, gender, sexual orientation, national origin, marital status, disability, age, and veteran status. Provides that employer may pay employees for equivalent work at different compensation levels if entire difference in compensation levels is based on bona fide factor that is related to the position in question and is based on merit, seniority, quantity or quality of production, workplace locations, travel, education, training, or experience. Makes unlawful employment practice to screen applicant based on their salary history or to determine compensation based on applicant's or employee's salary history. Allows use of salary history for internal hires and transfers. Prohibits

employer from seeking salary history until offer of employment is made. Expands remedies for pay equity violations and retaliation for wage inquires and wage claims under Oregon's unlawful employment discrimination laws to include right to compensatory and punitive damages and jury trial. Requires court to consider certain factors before awarding punitive damages. Provides prevailing party costs and reasonable attorney fees at trial and on appeal.

HB 2031

Metolius Resort Site

Effective June 29, 2017

Extends time that owner of Metolius resort site may apply to county for approval of small-scale recreation community and sets requirements for application. Modifies list of areas where such resort may not be sited. Removes list of five counties where small-scale recreation community may be established and provision allowing establishment in additional counties based on unemployment rate and replaces with list of 21 counties where small-scale recreation community may be established.

HB 2101

Oregon Sunshine Committee

Effective October 2017

Establishes four-member public record subcommittee of Legislative Counsel Committee. Specifies membership. Establishes 15-member Oregon Sunshine Committee (OSC) supported by Oregon Department of Justice. Pursuant to schedule approved by subcommittee, OSC will review public records exemptions included in Attorney General's (AGs) exemption catalog by December 31, 2026. Specifies types of exemptions not subject to review. OSC will review Oregon Administrative Rule (OAR) that impacts public records disclosure, if affected person or legislator requests review, and identify inefficiencies and inconsistencies in application of public records laws. Requires Legislative Counsel prepare open government impact statement for measures reported out of legislative committee that impacts disclosure, or exemption from disclosure of public record.

HB 2143

Outdoor Recreation Day

Designates the first Saturday of June the Oregon Outdoor Recreation Day to encourage Oregonians and visitors to enjoy the many spectacular outdoor recreation opportunities that the state has to offer.

HB 2318

State Parks Fee Schedule

Effective January 1, 2018

HB 2318 allows for the State Parks and Recreation Commission to establish a schedule that sets forth a range of charges within which the State Parks and Recreation Director may set, adjust, and assess fees for use of areas established and maintained by the department. The Director is limited to adjusting the fees to no more than four times each year. The range of fees established by the State Parks and Recreation Commission remains subject to legislative approval, or ratification, but the bill exempts the specific fees set or adjusted within that range from the legislative ratification process. OPRD anticipates an overall increase in fee revenues resulting from the measure of \$800,840 in the 2017-19 biennium.

HB 2405**OPRD, Tribes and Veterans****Effective January 1, 2018**

Adds tribal governments to list of governments and agencies eligible for funding assistance through State Parks and Recreation Department for cooperative efforts with nonprofit veterans' organizations to construct or restore memorials honoring veterans and war memorials located on public property.

HB 3149**Oregon Coast Trail****Effective October 2017**

Directs Oregon Parks and Recreation Department (OPRD) to cooperate with Oregon Department of Transportation (ODOT) and other interested stakeholders to develop action plan to complete Oregon Coast Trail. Directs OPRD to coordinate with nonprofit organizations to raise funds and complete all aspects of action plan. Department must submit annual progress reports to the legislature on the development and implementation of the plan.

HB 3203**Contracting Agency Analysis****Effective October 2017**

Incredibly onerous when first drafted and presented by Oregon contractors, the legislation we initially opposed was negotiated down to a more tolerable contracting analysis requirement. The central question becomes whether an agency, using its own equipment and personnel would be the least cost approach. An analysis already required by law, this bill changes some of the calculations and analysis requirements, including one positive one - changing the project amount for analysis from \$125,000 to \$200,000.

Requires contracting agency, prior to adoption of budget or commencing public improvement project, to file list of every public improvement planned during budget period with Bureau of Labor and Industries (BOLI). Requires agency to specify intent to use private contractor or agency equipment and personnel. Directs agency to file cost analysis demonstrating conformity with policy to construct at least-cost, at least 180 days prior to beginning projects with estimated value of construction work in excess of \$200,000. Specifies elements of cost analysis. Requires agency to prepare detailed plans as specified when using agency equipment and personnel.

Authorizes BOLI to investigate contractor or trade association complaints that least-cost policy has been violated. Prescribes investigatory authority and timeline for resolution. Authorizes BOLI to require violating agency to enter into negotiated agreement with complainant as to remedy. Provides remedy for failed negotiations and breach. Allows civil penalty if contested case hearing results in preponderance of evidence showing violation.

HB 3253**Contracting for The Blind****Effective October 2017**

Current Oregon law requires state agencies to purchase certain products and services from the Commission for the Blind as part of the state's efforts to increase economic opportunities for the visually impaired. According to statute, the Commission is authorized to operate vending facilities in public buildings and properties with the approval of the relevant agency head. In addition, the Commission is also tasked with surveying public properties for determining

suitability of vending facilities, in addition to training and licensing qualified blind staff for the facilities. HB 3253 expands and further defines the Commission's responsibilities regarding vending facilities and other services provided at public buildings and properties. The measure establishes priority for the Commission's Business Enterprise Program to operate vending machines, snack bars, micro-markets, cafés, convenience stores, espresso/coffee carts, and food trucks in facilities operated by counties, towns, cities, villages, and local governments.

HB 3350

Office of Outdoor Recreation

Effective January 1, 2018

Establishes the Office of Outdoor Recreation within the Oregon Parks and Recreation Department. The bill directs the State Parks and Recreation Director to appoint an Associate Director to serve as the executive head of the Office of Outdoor Recreation. The bill charges the Office of Outdoor Recreation with a variety of responsibilities including:

- Coordinating outdoor recreation policy.
- Assisting in developing/updating department outdoor recreation management strategies.
- Coordinating with the Oregon Tourism Commission and Travel Information Council.
- Serving as a clearinghouse and information center for outdoor recreation stakeholders.
- Developing data, independently or through contracts with appropriate public or private agencies, on the social, economic, and resource impacts of outdoor recreation.
- Promoting the health and social benefits of outdoor recreation in coordination with other related state programs and initiatives.

HB 3464

Sanctuary State

Effective July 6, 2017

Prohibits public bodies from asking about citizenship or immigration status or from disclosing specific information about persons for purpose of enforcing federal immigration laws unless required by state or federal law. Authorizes public bodies to refuse to disclose such information unless required by federal or state law, or pursuant to court order or warrant. Permits inquiry for purpose of determining eligibility for state assistance. Directs Attorney General (AG) to publish model policies for public bodies, consistent with state and federal law, that protect persons from enhanced federal immigration enforcement practices at public bodies and facilities, such as public school grounds, public health facilities, courthouses, and public shelters. Encourages public bodies or entities that contract with public bodies for health care, education, or access to justice, to implement policies based on AG's model policies. Declares emergency, effective on passage.

SB 106

Public Records Advocate & Council - *Monitor*

Effective July 7, 2017

Creates the Public Records Advocate and the Public Records Advisory Council to help resolve disputes between requesters of public records and the public bodies from which they are requested. The bill appropriates \$633,187 General Fund and authorizes two permanent full-time positions for DAS to hire an Operations and Policy Analyst 4 and a Principal Executive Manager G to implement the bill. The Office has authority to hire deputy advocates, facilitate dispute resolution, determine whether parties to a dispute are acting in good faith, adopt rules regarding the conduct of dispute resolution sessions, and provide training to public bodies on public records requests.

SB 116**Recreation in State Forest – *Neutral***

Requires Oregon Department of Forestry to honor existing State Parks and Recreation Department access pass issued to disabled veterans and to persons on leave from active duty military status on specific holidays, and to the extent possible, to permit access to recreation areas on forest lands free of charge.

SB 317**Public Meetings****Effective January 1, 2018**

Expands where state, county or city public bodies may hold public meetings to include locations within Indian country of federally recognized Oregon Indian tribe that is within Oregon.

SB 327**Recreational Immunity****Effective June 22, 2017**

Modifies the definition of owner for purposes of civil liability related to land used by the public for recreational purposes. Owner includes the holder of any legal or equitable title; officers, employees, volunteers or agents of possessors of any interest in land while these persons are acting within the scope of assigned duties; and the director, partner, general partner, shareholder, limited liability company member, limited liability partner or limited partner of possessors of any interest in land.

Support for the bill came from a large coalition of public and private landowners who started working during the interim. Opposition came from trial lawyers. SB 327 passed the Senate unanimously and the House with 54 Yes votes and 4 No votes, including the Speaker of the House.

SB 397**Confidentiality Release Form****Effective July 10, 2017**

SB 397 directs Department of Human Services to convene work group to develop common client confidentiality release form to be used by public bodies and community organizations to enable and facilitate appropriate sharing of confidential information.

The bill also directs the Department of Justice to review state laws and identify statutes that could be modified to better facilitate communications among entities that provide social services. DOJ is required to submit any legislative proposals for these modifications to the 2019 Legislative Assembly. In addition, DOJ must develop and maintain a guide setting forth the applicable laws according to discipline, including but not limited to the release of information by child welfare agencies, law enforcement, juvenile justice agencies, schools, mental health treatment providers, health care providers, substance abuse treatment providers and human services providers. This guide must be available on the DOJ website by December 31, 2018 and must be updated annually. DOJ must also make efforts to notify affected entities of the availability of the guide by January 1, 2019.

SB 416**Division of Public Works Projects****Effective June 14, 2017**

Prohibits anyone, not just public agencies, from dividing public works project into more than one contract to avoid prevailing wage rate laws. Clarifies factors Commissioner may use to determine if project should be divided. Clarifies requirement that every public works contract and subcontract must specify that every contractor and subcontractor, unless exempt, must file bond with Construction Contractors Board. Requires disadvantaged business enterprise, minority-owned business, woman-owned business, business owned by a service-disabled veteran, and emerging small business to post bond if it fails to pay workers prevailing wage rate. Clarifies actions that violate provisions prohibiting any person other than contractor or subcontractor from paying prevailing wage rate or fringe benefits to workers performing public works contract. Establishes that failure to pay fringe benefits and failure to pay prevailing wage rate are separate violations

SB 481**Public Records****Effective January 1, 2018**

Modifies requirement for public bodies to respond to requests for public records "as soon as practicable without unreasonable delay," to require public bodies acknowledge requests within five business days and complete requests as soon as practicable and without unreasonable delay, or as soon as reasonably possible but no later than 10 business days after acknowledgment.

Defines acknowledgment as completing request or confirming: possession of records sought; lack of possession; or uncertainty about possession. Defines completed requests as providing access to, or copies of, all nonexempt records; and/or thorough explanations for any records denied, not in possession or not capable of acknowledgment, including instructions how to obtain review.

Permits public body to exceed time limits for specified reasons, with written explanation to requester including estimated completion date. Makes explicit that public bodies may communicate with requesters.

Suspends completion of requests pending reply and receipt of any fee not waived and provides for automatic closure upon 60 days' inactivity. Includes estimated completion dates and failures to comply among actions that are subject to review. Treats public body's failure to respond as denial for purposes of review.

Requires Oregon Department of Justice to maintain accessible, comprehensive list of statutory exemptions. Requires Legislative Counsel and district attorneys to contribute information. Provides public bodies with immunity from liability for damage caused by disclosures made in good faith. Deems good faith disclosures of privileged information do not constitute waiver and are not voluntary.

SB 828**Work Schedules****Effective June 29, 2017**

As originally drafted, provisions of this bill applied to all hourly employees. As amended, it applies only to retail, hospitality and food service employees.

Beginning July 1, 2018, retail, hospitality and food service employers with 500 or more employees worldwide must provide good faith estimates of employees' work schedules at the time of hire and provide current employee with seven days' notice of work schedule. Beginning July 1, 2020, extends advance notice requirements to 14 days. Employer is required to compensate employees for schedule changes without seven-days advanced notice.

SB 1008

Diesel Emissions

Effective July 1, 2017

Originally a bold "Clean Diesel" bill focused on emissions and required public improvement contracts to reserve one percent of total contract price for performing repowers or retrofits of certain diesel engines. But as amended, SB 1008 only authorizes the State of Oregon to receive moneys pursuant to the Volkswagen Environmental Mitigation Trust Agreement, deposit agreement moneys in the Clean Diesel Engine Fund and use moneys to award grants for reducing emissions from school buses powered by diesel engines. HB 5006, the Christmas Tree bill, includes \$500,000 for DEQ to do inventory of non-road diesel engines.

SB 1067

Cost Containment

Effective July 7, 2017

Highly debated with the Republicans saying it was not near enough, SB 1067 was requested by the Governor and sponsored by legislative leadership. The bill makes numerous changes to current programs (including PERS) and processes to contain state government costs beginning in 2019-21 and into the future. The measure will result in direct savings, redeployment of funds, and institution of prudent financial practices and principles. Specific changes include:

- Legislative review of reclassification of positions by state agencies
 - Legislative review of agency long-term vacancies
 - Requires additional reporting on collective bargaining changes
 - Reduces the cap on state government FTE to 1.0% of the state population
 - Requires the Legislative Fiscal Office (LFO) to study the Lottery Commission administrative costs and transfer rate prior to the odd-numbered year session
 - Requires a study of state procurement practices to achieve savings
 - Authorizes LFO to update current service level assumptions from what is used to prepare the Governor's budget proposal
 - Sets a target of 2% of replacement value to be spent on deferred maintenance each biennium
 - Modifies the law regarding PERS side accounts (pre-paid employer contributions) and requires the Governor's budget proposal to include recommendations on funds available for additional side account deposits
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- Limits PERS contingency reserve fund to \$50 million
 - Ensures that communications regarding the PERS unfunded accrued liability includes information on side accounts
 - Requires the Legislature to establish a minimum project amount to be eligible for bond financing; projects below that amount need to be funded with cash
 - Centralizes debt collection activity in state government in the Department of Revenue and further specifies changes to debt collection processes
 - Requires PEBB and OEBC to establish an executive committee to develop a plan for the merger of the boards and to begin to combine administrative functions and operations

- Requires PEBB and OEBC to adopt methodologies designed to limit growth in premium or per member health plan costs to 3.4% per year
 - Eliminates “double coverage” for PEBB and OEBC employees who have family members also employed by a PEBB or OEBC employer
 - Ties hospital rates for PEBB and OEBC to a percentage of Medicare rates
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Funding:

Lottery Bonding Bill (SB 5530):

▪ Eugene Civic Alliance - Sports & Recreation Complex	\$6,000,000
▪ The Dalles Civic Auditorium	\$745,000
▪ City of Woodburn - Woodburn Community Center	\$1,000,000
▪ YMCA of Marion and Polk Counties - YMCA Facility	\$12,000,000
▪ City of Carlton - Panther Creek Reservoir	\$2,500,000
▪ Elliot State Forest Purchase	\$100 million

Budget Reconciliation Bill (SB 5006):

▪ Harry and David Baseball Park	\$750,000
▪ Mosier Civic Center	\$500,000

HB 5028 – OPRD Budget

The budget for the Department totals \$216,427,927 all funds. This is a 4% increase from the legislatively approved budget for the 2015-17 biennium. The budget contains no General Fund. The Department is supported by a constitutionally dedicated 7.5% of Lottery Funds, park user fees, and Federal Funds primarily supporting historic preservation and recreational trails.

Constitutionally, at least 12% of OPRD share of Lottery Fund must be invested in local government grants. Since 1999, hundreds of recreation and heritage grants worth more than \$120 million have been awarded to cities, counties, nonprofits and other groups, \$50 million since 2013 alone.

The projection of \$122 million in lottery funding over the next biennium means almost \$15 million dedicated to local governments.

HB 3470 – Marijuana Tax Distribution

Bill makes technical adjustments and alignments of policy and funding between bills passed over the session. Includes distribution of marijuana taxes to cities. City share of marijuana taxes collected from January of 2016 until July 1, 2017 will be distributed on a per capita basis without limitations in August or September.

Bills We Opposed That Failed:

HB 2027 - This bill was gutted and stuffed with language that would have prohibited Bend Parks and Recreation District from building a bridge over the Deschutes River that connected trails.

HB 2138 - Required certain public improvement contracts to reserve one percent of total contract price for performing repowers or retrofits of certain diesel engines used in course of performing contract.

HB 2187 - Required issue subject to collective bargaining during term of agreement that is not resolved through negotiation or mediation to be resolved through binding arbitration.

HB 2188 - Permitted employee of contracting agency that conducts cost analysis or determines feasibility of procurement, or exclusive representative of employee's bargaining unit, to seek judicial review of cost analysis or determination.

HB 2194 - Defined "funds of a public agency," for purposes of applying prevailing rate of wage to projects for public works, to include tax credits or tax abatements that contractor engaged in project for public works receives from state in connection with project.

HB 2196/HB 2564/SB 287 - Required contracting agency to base determination of contractor's responsibility for public improvement contract on contractor's demonstrating that contractor has provided health insurance.

HB 2215 - Established Oregon Right to Rest Act.

HB 2455 - Required public bodies to establish public records retention schedules that require minimum three-year retention of public records.

HB 2563 - Required contracting agency to develop and implement policy for granting preference to bidder, proposer or offer or that is headquartered or does majority of business transactions within this state or within United States or that agrees to supply goods, services, personnel and resources obtained within this state or within US.

HB 2670 - Provided that contracting agency, in solicitation for procurement, must require bidder or proposer to disclose violations of certain laws.

HB 2854 - Eliminated limitation of liability for owner of land used for trail or recreational purposes when owner is public body.

HB 3087 - Created family and medical leave insurance program to provide covered employee with portion of wages while on family medical leave or military leave.

HB 3387 - Established Task Force on System Development Charges to review existing law and policy relating to system development charges imposed by local governments in Oregon.

SB 123 - Authorized formation of children's special districts and provided districts the authority to assess, levy and collect taxes to pay the cost of children's services within the boundaries of the district.

SB 288 – Required contracting agency to develop and implement policy for granting preference to bidder, proposer or offer or that is headquartered or does majority of business transactions within this state or within United States.

SB 301 - Made unlawful employment practice for employer to refuse to employ, discharge or otherwise penalize individual because individual is registered identification cardholder

SB 504 - Eliminated limitation of liability for owner of land used for trail or recreational purposes when owner is public body

Next Time:

HB 2320 - ORPA provided letter of support – Established the Non-Motorized Boating Program within the Oregon State Marine Board, with funding provided by non-motorized boating permits. Required persons using non-motorized craft on river or stream to wear life jacket.

HB 2321 - Required boat operators to drain water from certain portions of boat before transporting boat within this state.

HB 2716 - Directed outfitters and guides on waters rated class II or higher to require passengers 12 years of age and under to wear helmet and to provide helmet for passengers over 12 years of age.

SB 417 - Directed Department of Transportation to establish State Parks registration plate program for issuance of special registration plate

SB 643 – Required outfitters and guides to offer helmets to all passengers using boat on waters rated class III or higher.

Other Notes:

- Rep. Paul Evans (D-Monmouth) attended an ORPA meeting to discuss two of his bills dealing with staging areas for emergency response. He shared with us some ideas on the role parks and recreation areas could play in his concept and how eventually long-term revenue would result. Both of his bills ultimately died in Ways & Means but they garnered significant support and conversation along the way.
 - **HB 2886** - Directed Office of Emergency Management to develop and implement strategy to construct infrastructure in appropriate public places to serve as staging areas for response to and recovery from a large-scale emergency. Established Oregon Public Places Are Safe Places Investment Fund.
 - **HB 2983** - Created Task Force on Disaster Response and Recovery. Directed task force to study and recommend legislation to develop program of upgrades to critical facilities and infrastructure with goal of increasing disaster resiliency.
- Legislators and other interest groups reached out to ORPA regarding **HB 3270**, which established the “Oregon Conservation and Recreation Fund” and taxed beverage as means

of building the fund. ORPA did not have an official opinion on the bill concept, but we did explain to those who contacted us that the “recreation” might be misunderstood when read; our programs were not involved. Money in the fund was appropriated to the State Fish and Wildlife Commission to carry out conservation, wildlife management and habitat improvement activities, and other activities under the wildlife laws that serve to protect, maintain or enhance wildlife resources in the State of Oregon. The bill did not pass.

- Though no one opposed the bill, **SB 380** just could not overcome the fiscal impact of the concept. The bill required the Oregon Parks and Recreation Department (OPRD) to identify and set aside 10% of the campsites available at each state park where campsite reservations are permitted, or four campsites, whichever is more, for reservations by disabled veterans for the first 30 days of any applicable reservation period. The estimated fiscal impact was over \$700,000 with additional funding likely needed for information technology upgrades and changes to procedure manuals.